

REMARKS/ARGUMENTS

This paper is filed in response to the Office Action dated May 12, 2010. In the Office Action, claims 1-5, 8-9, 14-21, 23, 25, 27-29, 31, 33-34, 39-43, 47-48, 50-52, 58-59, 61-63, 65, and 67-69 were rejected under 35 U.S.C. 103(a) as being unpatentable over Krebs (US Patent No. 7,029,280) in view of Parry (US Patent No. 6,077,085) and further in view of Turner (US Patent No. 6,633,742), claim 22 was rejected under 35 U.S.C. 103(a) as being unpatentable over Krebs, in view of Parry, in view of Turner, and further in view of Jensen (US Patent No. 6,834,276) and Gleissner (US Patent Application Publication No. 2004/0152054), claims 24, 26, 60 and 70 were rejected under 35 U.S.C. 103(a) as being unpatentable over Krebs, in view of Parry, in view of Turner, and further in view of Kershaw (US Patent No. 5,565,316), claims 30 and 49 were rejected under 35 U.S.C. 103(a) as being unpatentable over Krebs, in view of Parry, in view of Turner, and further in view of Jenkins (US Patent No. 6,293,801), claim 32 was rejected under 35 U.S.C. 103(a) as being unpatentable over Krebs, in view of Parry, in view of Turner, and further in view of Strub et al (US Patent No. 6,652,287), and claims 35-36 and 44-46 were rejected under 35 U.S.C. 103(a) as being unpatentable over Krebs, in view of Parry, in view of Turner, and further in view of Siefert (US Patent No. 5,810,605).

Applicant expresses appreciation for the Examiner's Interview conducted on August 5, 2010. As discussed in the Examiner's Interview, Applicant and Examiner agree that the proposed claim amendments including a prioritization step or feature appear to overcome the current art of record. Accordingly, Applicant respectfully submits that the limitations claimed in the claim set as provided herein overcome the cited prior art references.

M.P.E.P. § 2141 sets forth the *Graham* factual enquiries that should be considered when making an obviousness rejection under Section 103: 1) ascertaining the scope and content of the

prior art; 2) ascertaining the differences between the claimed invention and the prior art; and 3) resolving the level of ordinary skill in the pertinent art. (Citing *Graham v. John Deere*, 383 U.S. 1, 148 USPQ 459 (1966).) In addition, M.P.E.P. §§ 2141 and 2142 set forth that “the analysis supporting a rejection under 35 U.S.C. 103 should be made explicit.” (Citing *KSR International Co. v. Teleflex Inc. (KSR)*, 550 U.S. ___, 82 USPQ2d 1385 (2007).)

For a rejection under Section 103 to stand, it must explicitly set forth 1) factual findings showing that each claim element was known in the art at the time of the invention, and 2) factual findings showing that one of ordinary skill in the art, at the time of the invention, would have found it obvious to modify or combine the teachings to arrive at the claimed invention. (See, for example, the enumerated required articulations set forth in M.P.E.P. §2143 for each lettered rationale.)

Applicant respectfully submits that the references cited in the Office Action, either alone or in combination, do not teach or suggest all the limitations claimed in the claim set provided herein. For example, none of the cited references (alone or in combination) teach or suggest selectively prioritizing the individually matched educational content and corresponding educational activities for presentation to the particular learner based upon the learner performance data that was obtained and analyzed by the computer system as claimed herein. Further, none of the cited references (alone or in combination) teach or suggest using the learner performance data that was obtained and analyzed by the computer system to prioritize the identified portions of the educational content that are to be presented to the particular learner as claimed herein. Support for these limitations in the present application can be found, for example, on: page 54, lines 3-10; page 57, lines 15-22; page 65, line 2 through page 67, line 2; page 75, lines 3-23; and page 76, line 5 through page 77, line 8.

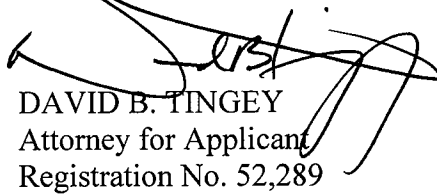
As identified in the Examiner's Interview, the Examiner agreed that the cited references do not provide a teaching of prioritizing the individually matched educational content. For at least this reason the cited references do not make obvious the claims as provided herein. Thus, Applicant respectfully submits that the claim set as provided herein overcomes all rejections made in the Office Action.

CONCLUSION

Applicant submits that the amendments made herein do not add new matter and that the claims are now in condition for allowance. Accordingly, Applicant requests favorable reconsideration. If the Examiner has any questions or concerns regarding this communication, the Examiner is invited to call the undersigned.

DATED this 12th day of August, 2010.

Respectfully submitted,



DAVID B. TINGEY
Attorney for Applicant
Registration No. 52,289

KIRTON & McCONKIE
1800 Eagle Gate Tower
60 East South Temple
Salt Lake City, Utah 84111
Telephone: (801) 323-5986
Facsimile: (801) 321-4893